

Zoning Board of Appeals Minutes 04/08/2015

MASHPEE ZONING BOARD OF APPEALS APRIL 8, 2015 MEETING MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, April 8, 2015, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Board Members Jonathan D. Furbush, William A. Blaisdell, Ronald Bonvie, Richard Jodka, Associate Members Domingo K. DeBarros and Scott Goldstein were present. Building Commissioner Michael Mendoza was also present.

NEW HEARINGS

No new hearings on this date.

OTHER BUSINESS

Mashpee Commons: To present their draft Regulatory Agreement requiring ZBA review and certification as part of their 40B final approval submission to Mass Housing.

Mr. Bonvie stepped down from this hearing.

Mr. Feronti, representing Mashpee Commons presented the draft regulatory agreement between Job-Whitings Trust and the subsidizing agency for the 40B Project. The Regulatory Agreement for the Comprehensive Permit covers the affordability requirement, cost certification process and other items. The purpose of presenting to the ZBA is a function of the final letter of approval process with Mass Housing that has to be presented to the ZBA and has to be acknowledged by the ZBA that it was reviewed.

Mr. Furbush stated the regulatory agreement was sent to Town Counsel who responded to the first draft in an email dated April 8, 2015. Mr. Furbush read the last paragraph into the record; "Note that the ZBA is not a party to this Agreement; it will merely be acknowledging that the Regulatory Agreement complies with the terms of the Comprehensive Permit, which, subject to the comments below, I believe it does."

Tom Feronti responded to the following bullet points and noted he will confirm with John Connell and email the final version. Mr. Furbush will need to forward the final version to Town Counsel once the comments below are completed:

- The Developer's Equity figure has to be incorporated into Article 7(d) on page 11;

This was addressed by Mashpee Comments.

- The Term of this Regulatory Agreement is 30 years, however, the affordability requirements established by the CP must be maintained in perpetuity. The terms and requirements of the CP will survive the expiration of the Regulatory Agreement, thus, the Developer will have to provide an alternative regulatory scheme satisfactory to the Board upon termination of this Agreement;

Mr. Feronti asked if Town Counsel wants the frame work in place before the expiration or is he pleased how this agreement itself is written and just wants to see what happens in 30 years. Mr. Furbush said he needs an alternative regulatory scheme for 30 years now.

- The Rent Schedule figures for the subject units have to be incorporated into Appendix A to the Agreement.

Mr. Feronti said; "the rent schedule is now Appendix B."

- I note that the CP provides, at Condition 21 that in addition to the affordability criteria established therein, there is also a Mashpee resident preference criterion. In my opinion, the Town may enforce this CP condition whether or not it is specifically set forth in the Regulatory Agreement (which acknowledges and affirms the terms of the CP), however, the Board may want the developer's representative to acknowledge this requirement at this time to assure its intent to comply therewith.

Mr. Feronti said; "the legality who will be placed in preference to the lottery system will need to be addressed by both Bob Engler and Mashpee Commons' Attorney to make sure that they are establishing the correct information."

- While not a critical point, the CP (back in 2007), at Condition 22, notes that CHAPA will be the Monitoring Agent for the Project, however, it does also acknowledge that Mass Housing may perform certain monitoring functions, thus, I don't deem the monitoring terms of the Regulatory Agreement to be "inconsistent" with the CP in that respect.

Mr. Feronti stated that CHAPA is no longer involved and that Mass Housing is the monitoring agent and will confirm this.

Items 1 and 3 were addressed and completed.

Items 2 and 4 are more legal points that need to be addressed.

Item 5 is a bookkeeping item.

The last page of the Regulatory Agreement is the "Acknowledgement" that needs to be signed. Mr. Feronti will consult with his Attorneys and will forward the information back to the Board as soon as possible.

Vote to approve Dom DeBarros, to Full Board Member status.

Mr. Furbush announced that Dom DeBarros is moving to a full board member replacing James Reiffarth who gave his notice. He thanked Jim for his many years of service.

Mr. Furbush made a motion to approve. All were in favor.

Discuss Proposed Bylaw Changes (Accessory Apartment, Flat Wall Signs and §174-17.)

Mike Mendoza, Building Commissioner was asked by the Chairman to address the Board members suggesting some changes to the bylaws as listed below and assist in simplifying the petition process for future ZBA applicants. These changes would require submission to the Selectmen prior to the Fall Town Meeting.

- Accessory Apartment
- Non-Conforming
- Flat wall signs

Accessory Apartment: Mike suggested this proposal would exempt the applicant from attending Plan Review and only would require applying to the Zoning Board for approvals. The Board discussed the pros and cons and voted. All were in favor.

Non-Conforming: Discussion was held and the Board voted not to make any changes to the Bylaws as it exists. All were in favor.

Flat Wall Signs: After discussion the Board asked Mike to review further and will discuss any updates at a later meeting. The Board voted to discuss at a later date. All were in favor.

Approve March 25, 2015 Meeting Minutes

Mr. DeBarros made a motion to approve the meeting minutes. All were in favor.

Mr. Jodka made a motion to adjourn. All were in favor.

Respectfully submitted;

Mary Ann Romero
Zoning Board of Appeals
Administrative Secretary